

# EXHIBIT C

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
vs. ) No. 08 CR 846  
 )  
JON BURGE, ) Chicago, Illinois  
 ) June 14, 2010  
Defendant. )

EXCERPT OF  
TRANSCRIPT OF PROCEEDINGS - Michael McDermott testimony  
BEFORE THE HONORABLE JOAN HUMPHREY LEFKOW, and a jury

APPEARANCES:

For the Government: HON. PATRICK J. FITZGERALD  
219 South Dearborn Street  
Chicago, Illinois 60604  
BY: MR. M. DAVID WEISMAN  
MS. APRIL PERRY

DEPARTMENT OF JUSTICE  
CIVIL RIGHTS DIVISION  
CRIMINAL SECTION  
601 D Street NW  
Room 5339  
Washington, DC 22314  
BY: MS. ELIZABETH L. BIFFL

NOTE: THIS IS A PARTIAL TRANSCRIPT. IN THE EVENT OF AN  
APPEAL, PLEASE CHECK TO SEE IF A FULL TRANSCRIPT IS ON FILE.  
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Official Court Reporter  
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1 APPEARANCES: (Continued)

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1 (Proceedings had in open court outside of the presence and  
2 hearing of the jury:)

3 \*\* \*\* \*\* \*\*

4 (Witness sworn.)

5 MICHAEL McDERMOTT, GOVERNMENT'S WITNESS, DULY SWORN

6 DIRECT EXAMINATION

7 BY MS. PERRY:

8 Q. Good morning. Could you please state and spell your name  
9 for the court reporter.

10 A. Michael McDermott, M-c-D-e-r-m-o-t-t.

11 Q. And you are here today, sir, pursuant to subpoena, is that  
12 right?

13 A. Yes, ma'am.

14 Q. And you are being compelled to testify today pursuant to a  
15 court order, is that right?

16 A. Yes, ma'am.

17 Q. Specifically Judge Lefkow has ordered that you come today  
18 and testify, is that correct?

19 MR. BEUKE: Objection, Judge, relevance.

20 THE COURT: Overruled.

21 BY THE WITNESS:

22 A. That's correct.

23 BY MS. PERRY:

24 Q. You understand, sir, that you have been given immunity by  
25 an assistant Attorney General for the Department of Justice.

1 Is that right?

2 A. That's right. I don't know what -- for what, but, yes.

3 Q. And what is your understanding of what you are required to  
4 do under that immunity agreement?

5 A. Well, if I am under oath, I'll tell the truth.

6 Q. You have never spoken with the government except when  
7 ordered by a Court to do so, is that right?

8 A. That's correct.

9 Q. So you and I have never had a conversation before today, is  
10 this right?

11 A. Yes, ma'am.

12 Q. And is it fair to say that you are not entirely pleased to  
13 be here today?

14 MR. BEUKE: Objection, Judge, relevance.

15 THE COURT: Sustained.

16 BY MS. PERRY:

17 Q. Did you previously work for the Chicago Police Department,  
18 sir?

19 A. Yes.

20 Q. When did you work for the Chicago Police Department?

21 A. From 1977 to 2006.

22 Q. Would you please take us through what your assignments were  
23 during that time?

24 A. 1977 I was a patrolman. A year later I became a tactical  
25 officer. And I took the test for detective.

1           And in 1981 I became a detective in Area 2. I  
2 remained there until 1999, where I worked as a detective in the  
3 cold case homicide unit.

4           I went to Area 4 briefly as a homicide detective.  
5 And I was promoted to sergeant. And I became the sergeant in  
6 the homicide section of the West Side.

7 Q. Now you said that you became a detective in Area 2. Were  
8 you assigned to a particular group within Area 2?

9 A. They had two groups. One was violent crimes, one was  
10 property crimes. I was assigned to violent crimes.

11 Q. And between what years were you assigned to violent crimes  
12 at Area 2?

13 A. It was always violent crimes in Area 2. So I would say  
14 from 1981 till I left there about '99, I think.

15 Q. Sir, did you retire from the Chicago Police Department?

16 A. Yes, ma'am.

17 Q. What rank did you retire with?

18 A. Sergeant.

19 Q. Do you know Jon Burge?

20 A. Yes.

21 Q. When did you first meet Jon Burge?

22 A. He was one of my four lieutenants that was in Area 2 when I  
23 was in Area 2 or some time in the early '80s.

24 Q. Now you say one of your four lieutenants. Is it accurate  
25 to say there is only one lieutenant at a time?

1 A. There is one lieutenant in violent crimes, there is one  
2 lieutenant in property crimes.

3 Q. So over the time that you were an Area 2 detective, you had  
4 four separate lieutenants over violent crimes?

5 A. That's correct.

6 Q. Do you know what years Jon Burge was the lieutenant of  
7 violent crimes?

8 A. Not the exact years. I know it was early '80s. He wasn't  
9 there when I first got there. In '85, '86 maybe, like three or  
10 four years.

11 Q. So he was there in approximately the mid 1980s?

12 A. Early '80s, right. I'm not exactly sure.

13 Q. During the time that he was a lieutenant over violent  
14 crimes, would he have been your commanding officer?

15 A. Yes.

16 Q. Now how would you describe Jon Burge as a commanding  
17 officer?

18 A. Out of the four, he was probably one of the better ones.  
19 He was more concerned with clearing crimes than I think the  
20 other lieutenants. He was on top of things. I think he  
21 aggravated some of the lazier detectives and held them  
22 responsible.

23 I thought he was concerned a lot about the victims of  
24 these crimes, their families. And overall I think he was a  
25 good lieutenant.

1 Q. Now you say he was on top of things. By that do you mean  
2 that he was engaged in the cases that were being investigated?

3 A. Not necessarily. The cases would come in. And per year  
4 there was actually thousands of violent crimes in Area 2.  
5 There was upwards to 200 murders a year at that time in Area 2  
6 alone. And he would, from what I understand, review most of  
7 the cases as they came in; whereas the other lieutenants never  
8 did that, they were just passed out to the individual  
9 detectives to work on.

10 So if a report came in, he was aware if something  
11 wasn't done that should have been done.

12 Q. And would he then speak with the detectives about that as  
13 well as the progress?

14 A. Yeah, he would -- he would call them on it, how come this  
15 wasn't done, and stuff like that.

16 Q. Did he play any kind of active role in any of the  
17 investigations that you had?

18 A. No.

19 Well, take it back. We would go out periodically to  
20 search for individuals who were wanted. One time there was a  
21 robbery crew that was working the Walgreen's. And like there  
22 would be a group of us that would go out and try to find them,  
23 and you would apprehend them and try to make the arrest.

24 Q. Was he generally at Area 2?

25 A. He was on a different shift than me, but -- so I don't know

1 if he was there or not

2 Q. What shift was he on?

3 A. I think he was on days and I was mostly nights.

4 Q. Would you see him at Area 2 during times that it wasn't his  
5 assigned shift?

6 A. I know one time, this Andrew Wilson case where several  
7 police officers were murdered, and he didn't go home. He slept  
8 on his desk for like five days or something. He never left the  
9 office, so --

10 Q. So he was at Area 2 to the best of your knowledge for the  
11 entire five days of that Andrew Wilson investigation?

12 A. That's my understanding, yes.

13 Q. What other detectives worked with you during the time that  
14 Lieutenant Burge was your commanding officer?

15 A. Oh, I don't know. Patricia Hickey, Tony Maslanka.

16 You know, sometimes you would break off and work with  
17 other detectives, so I -- I had one partner, Jim Boylan. But I  
18 don't know, I think Lieutenant Burge was gone at that time.

19 Q. Do you remember any other detectives who worked with you at  
20 the time that Lieutenant Burge was there?

21 A. Other detectives would work on, you know, on specific  
22 cases. It was never like one or two. So if -- you know, if  
23 you went out usually -- you're on the street a lot, and you  
24 would go searching for people. You know, you usually would  
25 have two other detectives with you. And whoever was available,

1 you would have them come with you.

2 But specifically I -- well, John Galvan. I'm not  
3 quite sure of the timeline. I know I -- initially when I got  
4 there I was by myself working midnights, and I was detailed out  
5 a lot. So I was detailed out for months.

6 And then I worked with Patricia Hickey, and then Tony  
7 Maslanka. And I think at that point Lieutenant Burge was gone.

8 Q. At the time that Lieutenant Burge was the lieutenant over  
9 violent crimes, did he have his own office?

10 A. The lieutenant has his own office.

11 Q. Can you describe what that office looked like?

12 A. It is 10 by 12, carpet, desk, couple chairs. Big window  
13 on, it would be, the north end.

14 Q. Was there a window on the door or was the door straight  
15 wood?

16 A. The door was usually open.

17 No, I don't think there is a window in that door. I  
18 know there is a big window facing outside.

19 Q. Are you familiar with a man named Shadeed Mu'min?

20 A. Yes.

21 Q. When did you first meet Mr. Mu'min?

22 A. Well, I wasn't sure of his name. They told me his name  
23 like ten years later. But it was some time in the '80s.

24 Q. Do you remember when in the '80s?

25 A. No.

1 Q. Do you remember where you were when you met Mr. Mu'min?

2 A. I was standing by, I believe, the doorway between the  
3 sergeants's offices and the lieutenants's office.

4 Q. Would this have been at Area 2?

5 A. Yes.

6 Q. And you said you were standing at the doorway. Were you  
7 inside one of the offices or were you in the hallway?

8 A. No, there is no hallway there. There is like a big room  
9 where like several sergeants sit. The detectives come and go.  
10 That's where all the files are at. That's where most of the  
11 activity is at.

12 Q. And where were you?

13 A. I was between the doorway. You have a central area where  
14 all the detectives work, and then you have a sergeants's  
15 office, which I just described, which is fairly big. And then  
16 off that they have the lieutenants's office.

17 Q. Where were you standing?

18 A. On the doorway between the lieutenants's office and the  
19 sergeants's office.

20 Q. Which direction were you looking?

21 A. I have no idea.

22 Q. What did you see happen?

23 A. At one point in time I saw a scuffle between a suspect and  
24 Lieutenant Burge.

25 Q. Let's talk about that.

1 First of all, did you ever enter Lieutenant Burge's  
2 office?

3 A. I may have been there. It has been 25 years.

4 Like I said, I thought I was by the doorway.

5 Q. Did you look into the office?

6 A. Yes.

7 Q. Who was in the office?

8 A. Lieutenant Burge and this suspect.

9 Q. And as best you know is that Mr. Mu'min?

10 A. That's the name they told me.

11 Q. Were you working on a case involving that individual?

12 A. No.

13 Q. Do you remember why you were in this particular place at  
14 this particular time?

15 A. No.

16 Q. Would it have been standard procedure for Lieutenant Burge  
17 to have a suspect in his office?

18 A. It has happened on occasion.

19 Q. How often --

20 A. I mean, it has happened on many occasions with other  
21 lieutenants.

22 Q. How often have you seen a suspect in Lieutenant Burge's  
23 office?

24 A. That's the only time I can remember.

25 Q. So this would be the only time you ever saw a suspect in

1 Lieutenant Burge's office?

2 A. The best as I can remember, yes.

3 Q. What was the first thing you remember seeing take place  
4 between Mr. Mu'min and Mr. Burge?

5 MR. BEUKE: Objection, Judge, asked and answered.

6 THE COURT: Overruled.

7 BY THE WITNESS:

8 A. I saw a scuffle between Lieutenant Burge and the suspect.

9 THE COURT: I'm sorry. You were right.

10 BY MS. PERRY:

11 Q. You said you saw a scuffle. What did this scuffle consist  
12 of?

13 A. There was a brief scuffle. I estimated at the grand jury  
14 it was 20 seconds. It could have been less. But I saw  
15 Lieutenant Burge scuffling with the guy. I don't even know if  
16 the guy was standing up or sitting down.

17 I saw at some point that Lieutenant Burge had  
18 something in his hand, and it went across the face of the bad  
19 guy.

20 Q. So isn't it true the first thing you saw in that office was  
21 Lieutenant Burge place a gun to Mr. Mu'min's head?

22 MR. BEUKE: Objection.

23 BY THE WITNESS:

24 A. I never said that. That's an absolute lie. And if he said  
25 that, that's a lie.

1           I saw Lieutenant Burge take his gun out and secure  
2 it. He did raise it up and point it at the other side of the  
3 room where the suspect was at. And I testified it was no more  
4 than a second. So he had the gun out, and he secured it  
5 somewhere. And there was no threats made. There was nothing  
6 -- flinches made by this suspect.

7           But he did point it up, and he did point it in the  
8 direction of where this guy was sitting ten feet away. But at  
9 no time did he place a gun to that man's head.

10 BY MS. PERRY:

11 Q. So, sir, you saw Lieutenant Burge take his gun out of his  
12 holster, is that correct?

13 A. I don't know if it was in his holster. Shadeed Mu'min  
14 testified it came out of his desk. Whether or not it came out  
15 of his desk, he raised it up and secured it in his holster or  
16 vice versa, I don't know.

17           I know he looked over at one point in time. He did  
18 have the gun up. It was pointing on the other side of the  
19 room, and it was put away.

20 Q. You said that he took the gun out of somewhere. You don't  
21 remember where, is that right?

22 A. Correct. I saw -- when I looked over, I saw the gun was  
23 up. I testified it was just for a second. I hear from Shadeed  
24 Mu'min, he said it was retrieved from a desk. That's  
25 possible. And then he put it in his holster.

1 MR. BEUKE: Judge, I'm going to object. Just can we  
2 be heard briefly at sidebar?

3 (Sidebar proceedings had in open court outside of the  
4 hearing of the jury:)

5 MR. BEUKE: Judge, my objection is I don't mean to --  
6 or I don't think it is proper for Mr. McDermott to testify as  
7 to what he believes Mr. Mu'min may have said in his testimony  
8 or grand jury appearance, and I don't know if there is a way  
9 to, you know, admonish him outside of the presence of the jury  
10 just that he is to relate what he recalls and not what he  
11 believes Mu'min said.

12 MS. PERRY: Judge, I agree completely.

13 MR. BEUKE: Get out of here.

14 MS. PERRY: If I could just point a position for him  
15 to -- I'd like for him to be treated as a hostile witness so  
16 that I can lead him through the rest of his direct.

17 MR. BEUKE: Well --

18 MS. PERRY: His testimony is different than what he  
19 has said at grand jury, and he's offering a lot that is not  
20 admissible.

21 MR. BEUKE: Well, you know, I'm making that request  
22 that he be admonished not to relay to what he believes Mu'min  
23 may have testified to or may have said to people in the past.  
24 I don't want that out, that's clearly improper. But I don't  
25 think he has demonstrated that he is a hostile witness just

1 because Ms. Perry may not like some of his answers. I mean  
2 that happens to me all the time.

3 MS. PERRY: Well, but I'm going to have start  
4 impeaching him with his grand jury testimony.

5 MR. BEUKE: Well, Judge, that's a --

6 THE COURT: Well --

7 MR. BEUKE: -- horse of a different color, so -- I'm  
8 just here for the purposes of trying to get him admonished, you  
9 know.

10 THE COURT: What would you propose that I say?

11 MR. BEUKE: Well, Judge, I obviously don't want it  
12 done in the presence of the jury. I don't know if there is a  
13 way to, you know, excuse them for a couple minutes and just  
14 maybe, you know, instruct him.

15 MS. PERRY: If I am allowed to lead him, I don't think  
16 we'll have this problem --

17 MR. BEUKE: Well --

18 MS. PERRY: -- because I'll just be asking him --

19 MR. BEUKE: I'm uncomfortable with that, Judge. I  
20 mean, I would prefer that you admonish him, you know, outside  
21 of the presence of the jury.

22 THE COURT: Well, I don't want to interrupt.

23 MR. BEUKE: Yeah, but this is not --

24 THE COURT: He's not -- he is a reluctant witness  
25 clearly, so --

1 MS. PERRY: You can have him walk over here, Judge.

2 MR. BEUKE: Well, no, I don't want to do that either,  
3 Judge, but --

4 MS. PERRY: Well --

5 MR. BEUKE: I mean, here I have given my suggestion.  
6 I mean, I would like the jury to be excused for two minutes.  
7 It is not a big deal, I don't think, and then brought back in.

8 THE COURT: But you want me to say to him that he's  
9 not to relate what he has read about Mu'min's testimony?

10 MR. BEUKE: Yes, I think he has testified, at least in  
11 response to two questions that I don't -- you know, I believe  
12 Mr. Mu'min may have said this or Mr. Mu'min may have said that,  
13 and that's not what I recall. I mean, that's not the question  
14 Ms. Perry asked, and, you know, I don't --

15 MS. PERRY: You think that --

16 THE COURT: All right. Well --

17 MR. BEUKE: We're starting to get along here.

18 THE COURT: -- I'll reserve your request. And I guess  
19 we can do this. It won't take long.

20 MR. BEUKE: Okay. Thanks.

21 (Proceedings were had in open court in the presence and  
22 hearing of the jury:)

23 THE COURT: Members of the jury, I'm going to have to  
24 excuse you for a brief time. So please rise, everyone.

25 (Proceedings had in open court outside of the presence and

1 hearing of the jury:)

2 THE COURT: Be seated.

3 Mr. McDermott, counsel for Mr. Burge has asked that I  
4 instruct you that your testimony not include what you think  
5 Mr. Mu'min may have said at some previous testimony.

6 THE WITNESS: Okay.

7 THE COURT: Just respond to the questions based on  
8 your own knowledge.

9 THE WITNESS: Yes, ma'am.

10 THE COURT: All right.

11 Is that sufficient, Mr. Beuke?

12 MR. BEUKE: It is, Judge. Thank you.

13 THE COURT: All right. We'll have the jury come back  
14 in.

15 (Proceedings had in open court in the presence and hearing  
16 of the jury:)

17 BY MS. PERRY:

18 Q. Sir, is it your testimony today that you did not see Jon  
19 Burge point a gun at Mr. Mu'min?

20 A. He had pointed a gun at the side of the room, at least ten  
21 or twelve feet away from where Shadeed Mu'min was at. From  
22 where I was at, I can't see if the gun is directly pointed at  
23 him or next to him or above him. But it was pointed, I would  
24 say -- it appeared it was pointed at him, but you can't tell  
25 from the perspective I was at.

1 Q. Sir, you testified before the grand jury on July 3rd, 2008,  
2 is that correct?

3 A. Yes, I did.

4 Q. And at that time you were sworn to tell the truth, is that  
5 correct?

6 A. Yes.

7 Q. And you did tell the truth, is that correct?

8 A. Yes, I did.

9 MR. BEUKE: Objection, Judge, to the leading the  
10 witness.

11 BY MS. PERRY:

12 Q. I'm going to hand you what's --

13 MR. BEUKE: Leading.

14 THE COURT: Overruled.

15 BY MS. PERRY:

16 Q. -- been marked as Government Exhibit 23.

17 I'm going to direct your attention to page 13.

18 A. Okay.

19 Q. Isn't it true, sir, that you were asked these questions and  
20 gave these answers before the grand jury?

21 "What do you recall occurring while you were in  
22 there?

23 "Answer: I was standing there, and I saw Jon Burge  
24 point a gun at him.

25 "Question: Do you know whose gun it was?

McDermott - direct by Perry

19

1 "Answer: It must have been his.

2 "Question: And what was he saying as he was pointing  
3 the gun at him?

4 "Answer: I'm sure" --

5 MR. BEUKE: Objection, Judge.

6 BY MS. PERRY:

7 Q. -- "something to the effect about confessing."

8 MR. BEUKE: Objection.

9 THE COURT: All right. The last question and answer  
10 is stricken as not impeaching.

11 BY MS. PERRY:

12 Q. Sir, were you asked those questions, and did you give those  
13 answers?

14 A. Yes.

15 Q. And at the time that Jon Burge was pointing a gun, and as  
16 you say in the general direction of Shadeed Mu'min, he was  
17 talking to him about confessing, wasn't he?

18 A. No. I was guessing that's what the gist of it was. I told  
19 you repeatedly that I don't remember the conversation that was  
20 said. I know that there was not a threat like I'm going to  
21 shoot you or anything like that.

22 And I also responded that the response from Shadeed  
23 Mu'min was there no flinching or ducking or anything like  
24 that.

25 But I'm guessing this whole thing, which I had -- is

1 just a few minutes in this whole office, the more I'm thinking  
2 about it, the more since I have testified, I find that hard to  
3 believe that this was about a confession. I don't know if this  
4 was something personal or he knew one of the victims or maybe  
5 I'm misreading the whole thing.

6 But it is not his case and it is not my case, and I  
7 can't see this as somebody trying to get a confession from  
8 somebody when you don't know the facts or all the facts. You  
9 should have the detective that was there.

10 So I don't -- this is in an open room in his office,  
11 and I don't know if it was a confession or not, and that's what  
12 I testified to. I don't know, but that's what I was assuming.

13 Q. Sir, at the time you testified before the grand jury, you  
14 were sure that this was something to the effect about  
15 confessing, isn't that right?

16 A. No, I said I was guessing. Repeatedly I said I'm assuming  
17 that's what was going on.

18 Q. Sir, directing your attention to page 14, were you asked  
19 this question, and did you give this answer?

20 "Question: And what was he saying as he was pointing  
21 the gun at him?

22 "Answer: I'm sure it was something to the effect  
23 about confessing. I do not remember the content of the  
24 conversation, but he pointed a gun. I thought it was kind of  
25 silly, you know, but I saw him point a gun at the suspect."

1           Were you asked those questions, did you give those  
2 answers under oath?

3     A.   Yes, I did.

4     Q.   Sir, at the time that you saw Lieutenant Burge point a gun  
5 at Mr. Mu'min, how far away was Burge from Mr. Mu'min?

6     A.   Ten to twelve feet.

7     Q.   Where was Lieutenant Burge at the time?

8     A.   He was on one side of the room where the windows are at,  
9 and the other side of the room is where the suspect was at.

10    Q.   And was the suspect sitting or standing at the time?

11    A.   I don't recall.

12    Q.   Is there anything that might refresh your recollection?

13    A.   I believe I testified at the grand jury I don't recall.

14    Q.   How far away were you from this as it took place?

15    A.   Not exactly sure, but the doorway would be more towards  
16 where the suspect was at.

17    Q.   So were you a few feet away?

18    A.   Yes.

19    Q.   And were you able to hear what was spoken at the time?

20    A.   Like I said something was going on. I don't recall the  
21 conversation.

22    Q.   I understood you don't remember the exact words spoken, but  
23 were you able to hear what was going on?

24    A.   There was somewhat confrontational or argumentative between  
25 the two.

1           Like I said, it wasn't my case. I wasn't paying  
2 attention to everything. And I do know when the gun was raised  
3 up for a second that I didn't hear any threat.

4 Q. You said that Lieutenant Burge's demeanor at the time was  
5 somewhat confrontational.

6 A. I would say both of them were.

7 Q. Was Mu'min doing anything to deserve having a gun pointed  
8 at him, sir?

9           MR. BEUKE: Objection to the form of the question,  
10 Judge.

11           THE COURT: Overruled.

12 BY THE WITNESS:

13 A. Like I said, I thought they were both argumentative.

14 BY MS. PERRY:

15 Q. My question was was he doing anything to deserve having a  
16 gun pointed at him?

17           MR. BEUKE: Objection, Judge.

18           THE COURT: Overruled.

19 BY THE WITNESS:

20 A. As I testified before, it may not have been directly at  
21 him. It was towards that room, which is 10 to 12 feet away  
22 from anybody's position.

23           Where I was at you can't tell if that gun was aimed  
24 at -- directly at him. Was it reckless? Possibly. It was  
25 only for a second.

1           So whether or not you say he deserved it or not, I  
2   know it was argumentative. I don't believe it was really meant  
3   to be a threat, but that's my opinion.

4   BY MS. PERRY:

5   Q. All right. Well, let's talk about what happened next,  
6   sir. What did you see happen after that?

7   A. I saw Jon Burge scuffle with the suspect I'm saying for  
8   about 20 seconds or so.

9   Q. Isn't it true, sir, you saw Jon Burge take a piece of  
10  plastic and put it over Mr. Mu'min's head?

11  A. I testified I didn't know what it was. I saw something in  
12  his hands. I thought it was something clear. It wasn't over  
13  his head. I saw something briefly in front of his face. The  
14  suspect was talking at the time. So this whole scuffle thing I  
15  testified to was about 20 seconds.

16  Q. Is it your testimony today that Lieutenant Burge did not  
17  approach Shadeed Mu'min and put something over his head?

18  A. You guys keep on wanting me to say that. No, he did not  
19  put something over his head. His arm might have went over his  
20  head and there was something in front of his face. I clarified  
21  it a few times at the grand jury. I don't know what it was.  
22  It was just a glimpse of something. I thought it was clear.  
23  It was 25 years ago. And it was very brief. And I know  
24  Shadeed Mu'min was talking at the time.

25  Q. Sir, directing your attention to page 17 of your grand jury

1 testimony. Were you asked this question, did you give this  
2 answer?

3 "Question: What happened after that, after he pointed  
4 the gun at him?

5 "Answer: He approached Shadeed Mu'min, and he put  
6 something over his head."

7 Was that the question you were asked, and was that the  
8 answer you gave?

9 A. Yes.

10 Q. And was that truthful at the time, sir?

11 A. I'm describing it -- I clarified it. If you read all the  
12 transcript, I clarified it a few times when you guys asked me  
13 this. And I said there was nothing on his head. His arm might  
14 have went over his head. The only thing I saw was some  
15 material that was in front of the face for Shadeed Mu'min for a  
16 brief time.

17 Q. And, sir, that was transparent material, was that right?

18 A. It appeared to have been, yes.

19 Q. And then you saw Shadeed Mu'min hunched over, and you  
20 couldn't see the front of his head anymore, is that correct?

21 A. I think they were both hunched over.

22 Q. Well, Shadeed Mu'min was sitting, is that correct?

23 A. As I stated before, I don't know if he was sitting or  
24 standing.

25 Q. Lieutenant Burge you know was standing, is that right?

1 A. I believe he was.

2 Q. He was over Shadeed Mu'min, is that right?

3 A. At one point in time I believe he was on the side or behind  
4 him.

5 Q. And Lieutenant Burge approached him from behind, is that  
6 right?

7 A. At one point he did.

8 Q. And that was at the point right before he put the plastic  
9 thing over his face, is that right?

10 A. I saw a scuffle. I didn't see it like play by play. It  
11 happened kind of quick. He approached him. He did come up  
12 from the side or behind him, and there was a scuffle. And I  
13 glanced over and at one point it looked like there was  
14 something in Jon Burge's hand.

15 Q. And you saw that thing go over Shadeed Mu'min's face, is  
16 that right?

17 A. It appeared that it was in front of his face, yes.

18 Q. And as far as you could tell Shadeed Mu'min had not  
19 instigated any kind of physical contact with Lieutenant Burge,  
20 isn't that right?

21 A. Physical contact? No.

22 Q. So Lieutenant Burge approached him and made the first  
23 physical move, isn't that right?

24 MR. BEUKE: Objection, Judge, asked and answered. We  
25 have been through this three times.

1 THE COURT: He's under cross. Overruled.

2 BY MS. PERRY:

3 Q. As you saw Lieutenant Burge place something over Shadeed  
4 Mu'min's face, you could tell that Lieutenant Burge was still  
5 saying something about confessing, isn't that right?

6 A. As I said before, I don't know if it was about confessing.  
7 That's what I assumed this whole thing was about.

8 Q. And you understood that this was about confessing because  
9 your take of that was that that's what Lieutenant Burge was  
10 doing this to Shadeed Mu'min for, isn't that right?

11 A. Like I said I assumed that. I'm guessing.

12 Q. And you --

13 A. But it was only for like three minutes. You -- I have  
14 never seen an interview with a violent criminal that lasted  
15 three minutes, and it was in a lieutenants's office.

16 I thought it might have been something different,  
17 like he knew one of the victims or he -- this was -- he had a  
18 history with this guy. But to bring somebody in the  
19 lieutenants's office unhandcuffed for a three-minute interview  
20 when you're not even assigned the case, it doesn't make sense  
21 to me.

22 I have been a detective for 30 years. I have never  
23 seen it done. So I thought there was something else going on  
24 here. But I would assume if you are talking to a bad guy,  
25 you're trying to get a confession, but I'm guessing.

1 Q. And, sir, it only took three minutes because that's all it  
2 took before Shadeed Mu'min agreed to confess, isn't that right?

3 A. He didn't confess when I was there.

4 Q. I understand you did not take the confession, sir. But  
5 your understanding of the reason that this all ended was  
6 because Shadeed Mu'min agreed to confess.

7 MR. BEUKE: Objection.

8 BY THE WITNESS:

9 A. I would think he could confess right after that, and he  
10 never confessed.

11 THE COURT: Overruled.

12 BY THE WITNESS:

13 A. That was the end of it. If he says I'm going to confess,  
14 the next thing you would do is listen to a confession. He  
15 never confessed.

16 BY MS. PERRY:

17 Q. I understand that you did not take the confession. But,  
18 yes or no, sir, you understood this ended because he had agreed  
19 to confess, is that correct?

20 A. As I repeatedly said, I'm guessing about all this. I have  
21 no idea.

22 Q. Now, sir, you said that this was not your case, is that  
23 correct?

24 A. Yes.

25 Q. You also said it was not Lieutenant Burge's case, is that

1 correct?

2 A. The lieutenant wouldn't handle a robbery case as far as I  
3 know. I mean, he doesn't assign himself cases. It is assigned  
4 to a detective.

5 Q. So to the best of your knowledge there was no reason this  
6 interview should have been happening at all, isn't that true?

7 MR. BEUKE: Objection, Judge. Form of the question.

8 THE COURT: Overruled.

9 MR. BEUKE: Calls for speculation.

10 BY MS. PERRY:

11 Q. Sir, you knew of no reason why this interview should be  
12 taking place.

13 MR. BEUKE: Objection, Judge. Same objection.

14 THE COURT: Overruled.

15 BY THE WITNESS:

16 A. Like I said I thought there might be some history here.  
17 Either he locked him up before for robberies or the kid that  
18 was shot in the chest, maybe he knew him. It was a few blocks  
19 from his house. Maybe it was something personal, I don't know.

20 BY MS. PERRY:

21 Q. And you assumed it would have been something personal  
22 because of the way Lieutenant Burge was treating Shadeed  
23 Mu'min, isn't that true?

24 A. He might have been talking to him, and the guy had dope in  
25 his mouth. I mean, that's a common thing. Maybe he's trying

1 to get dope out of his mouth. Maybe he's spitting on the  
2 floor. I have no idea. I don't know Jon Burge's intentions.  
3 And it is wrong for me to say why this occurred if you don't  
4 know what a person's intentions were.

5 What I do know is that Shadeed Mu'min wasn't  
6 intimidated by this, and he never complained. And it lasted  
7 less than 20 seconds. So this is -- I changed my mind about  
8 this, I don't believe this is abuse in any way.

9 Q. When Jon Burge put that piece of plastic over Shadeed  
10 Mu'min's face, he couldn't breathe, could he?

11 A. I testified --

12 MR. BEUKE: Objection.

13 BY THE WITNESS:

14 A. -- that he was talking so I imagine if he was --

15 THE COURT: Wait.

16 BY THE WITNESS:

17 A. -- talking, he could --

18 THE COURT: Wait. Don't --

19 BY THE WITNESS:

20 A. -- breathe.

21 THE COURT: Okay. Wait. When there's an objection,  
22 Mr. McDermott, please don't answer.

23 THE WITNESS: I'm sorry.

24 MR. BEUKE: Judge, my objection is he has testified I  
25 think on four or five different occasions in the last 30

1 minutes that it was something transparent. He never said it  
2 was plastic.

3 THE COURT: That I believe is correct.

4 All right. I'll sustain.

5 BY MS. PERRY:

6 Q. When Jon Burge put that thing over Shadeed Mu'min's head,  
7 he could not breathe, could he?

8 MR. BEUKE: Objection, Judge. He didn't say he put it  
9 over his head. Misstates the testimony.

10 THE COURT: Try again.

11 BY MS. PERRY:

12 Q. When Lieutenant Burge put that thing in front of Mu'min's  
13 face, he could not breathe, could he?

14 A. I am not Shadeed Mu'min. I think that's a possibility.  
15 But I also testified Shadeed Mu'min was talking during this  
16 time. So if he could talk, I guess he could breathe. And the  
17 fact that it less -- lasted less than 20 seconds, I don't if it  
18 was -- I don't know what the intent was. I -- I have no idea.

19 Q. You have no idea.

20 Directing your attention to page 20 of your grand  
21 jury statement, sir, were you asked this question, did you give  
22 this answer?

23 "Question: Could you tell whether or not Mu'min was  
24 able to breathe while this bag was over his head?

25 "Answer: I don't think he would have been able to. I

1 believe that's the whole idea of doing that."

2           Were you asked those questions, did you give those  
3 answers?

4 A. I did give those answers, and again I'm guessing.

5 Q. And you were guessing that that was the reason that it was  
6 done was to be able to scare him, is that correct?

7 A. That's a guess.

8 Q. And that was based upon your years as a police officer, is  
9 that right?

10 A. That's not knowing the intention of the person doing it.  
11 And that's -- that's a guess, right.

12 Q. And it was your guess that this was being done in order to  
13 get a confession, is that right?

14 A. That would be my guess.

15 Q. And, sir, you have testified today, at least, that you're  
16 not sure what it was, but it was indeed a plastic bag, isn't  
17 it?

18 A. I never said it was a bag. I said I saw something clear in  
19 his hands.

20 Q. Directing your attention to page 21, were you asked this  
21 question, did you give this answers?

22           "This was a plastic bag over the head.

23           "Answer: Correct."

24           Were you asked that question, did you give that answer  
25 under oath?

1 A. Yes. But you got to read all of it, and it started the  
2 September grand jury, I did clarify it again. You guys keep on  
3 saying it is a bag, and I'm it wasn't a bag. I don't know what  
4 it was.

5 But, yes, I started agreeing to some -- these are  
6 questions given by the U.S. Attorney, and then the plastic bag,  
7 and then the plastic bag, and I kept on stopping and clarifying  
8 it that I had no idea what it was. So --

9 Q. Sir, were you asked the question: "This was a plastic bag  
10 over the head."

11 And did you give the answer: "Correct."

12 Were you asked that question --

13 A. Yes. But you need to read the whole transcript.

14 Q. -- did you give the answer?

15 A. Yes, I said that. You need to read whole transcripts.

16 Q. Your question today, sir, is were you asked that question,  
17 did you give that answer?

18 A. Yes.

19 Q. And that was under oath, is that right?

20 A. Yes. I misspoke.

21 Q. And that was over head for approximately 20 seconds, is  
22 that right?

23 A. It was in front of his face for about 20 seconds, yes.

24 Q. At this time Lieutenant Burge was standing, is that  
25 correct?

1 A. I believe so.

2 Q. And Mu'min was sitting, is that correct?

3 A. I don't know if he was setting or standing.

4 Q. Sir, directing your attention to page 22. Were you asked  
5 this question, did you give this answer under oath?

6 "Question: But again he remained seated during this  
7 entire period of time.

8 "Answer: I don't know. I believe he was seated.

9 "Question: Well, while you were in the room --

10 "Answer: I believe he was seated."

11 Were you asked those questions, did you give those  
12 answers?

13 A. I answered I don't know.

14 That's correct. That's what I answered, I don't  
15 know.

16 Q. You were asked the question, and you answered: "I  
17 believe -- I don't know. I believe he was seated."

18 Is that correct?

19 A. Correct.

20 Q. And again Shadeed Mu'min had not done anything physically  
21 to instigate this with Lieutenant Burge, had he?

22 MR. BEUKE: Objection, Judge, asked and answered.

23 THE COURT: You did ask it.

24 BY MS. PERRY:

25 Q. At the time the bag was placed over his head, had he done

1 anything physically to instigate it?

2 A. Again there was not a bag put over his head. I don't know  
3 if there was something to instigate it. Like I said, did he  
4 have narcotics in his mouth, was he spitting, was this  
5 intimidation, I don't know the intentions of Jon Burge.

6 Q. Well, sir, you were there. Were there narcotics in his  
7 mouth?

8 A. Not that I am aware of.

9 Q. And would it be an effective remedy to having narcotics in  
10 your mouth to put something over someone's face so they can't  
11 breathe?

12 A. So you get your fingers bit, and you are telling them to  
13 give it up or spit it out --

14 Q. And is that what Lieutenant Burge was telling him, to give  
15 it up or spit it out, sir?

16 A. I don't hear spit it out. I don't remember the  
17 conversation. All I know is he was scuffling with him. I was  
18 kind of shocked about the whole thing. I don't know why it  
19 happened.

20 Q. You didn't hear him tell him to spit any narcotics out, did  
21 you, sir?

22 A. I didn't hear those words. If he did say it, I don't  
23 remember it.

24 Q. And it was your understanding that this was in order to get  
25 a confession, isn't that true?

1 A. That was my initial guess, yes.

2 Q. Wasn't just initial guess, it was also your guess in July  
3 of 2008, isn't that true?

4 A. I have had a lot --

5 MR. BEUKE: Objection, Judge, asked and answered.

6 THE COURT: Overruled.

7 BY THE WITNESS:

8 A. I have had a lot of time to thing about it since then. It  
9 doesn't make sense to me that a three-minute so-called  
10 interview would have been an attempt to get a confession about  
11 a case that nobody was working on in that room. So, again, I  
12 don't know what. Maybe that's what it was. I'm guessing.

13 What I am saying it doesn't make sense that you would  
14 do this in an open interview room with people that were there  
15 who don't know all the facts of the case. You never interview  
16 a bad guy unless you know all the facts of the case. And  
17 neither of us, as far as I know -- I know I didn't, and I would  
18 be surprised if the lieutenant would be aware of all the  
19 facts. You don't confront people and try to do an interview in  
20 three minutes.

21 So I'm guessing -- that's what we do when we bring in  
22 bad guys to the area, we try to get statements. So -- but I  
23 don't know what this was about.

24 Q. But you believed it was an attempt to get a statement,  
25 didn't you, sir?

1 MR. BEUKE: Objection, Judge. Asked and answered  
2 again.

3 THE COURT: Overruled.

4 BY THE WITNESS:

5 A. Again I was -- I'm guessing I don't know.

6 BY MS. PERRY:

7 Q. After Lieutenant Burge put that piece of whatever in front  
8 of Mr. Mu'min's face that made it unable for him to breathe,  
9 you said that that was there for about 20 seconds, is that  
10 right?

11 A. No, I said the scuffle lasted about 20 seconds. I don't  
12 know how long that was there. I just had a glimpse of it. And  
13 you're assuming that he couldn't breathe. I was assuming  
14 that's possible, but I also said that he was talking during  
15 this time. So if he was talking he could breathe.

16 Q. Sir, you keep calling it a scuffle. Tell me exactly what  
17 Mr. Mu'min did to serve having this piece of plastic put over  
18 his face?

19 A. Maybe he had narcotics in his mouth --

20 MR. BEUKE: Objection.

21 BY THE WITNESS:

22 A. -- that's why he deserved it.

23 BY MS. PERRY:

24 Q. Do you have any evidence at all that he had narcotics put  
25 in his mouth, sir?

1 A. No.

2 Q. And you have testified before the grand jury twice, is that  
3 right?

4 A. Yes.

5 Q. And at no time did you ever say that this might have been  
6 because he had narcotics in his mouth, is that right?

7 MR. BEUKE: Objection.

8 BY THE WITNESS:

9 A. Right.

10 BY MS. PERRY:

11 Q. That's a conclusion you just reached when, sir?

12 A. Thinking about it for the last year and a half.

13 Q. So this happened in the early '80s, is that right?

14 A. Yes.

15 Q. And over the 25 years between when this occurred and the  
16 time that you testified before the grand jury in 2008, those  
17 whole 25 years you believed that this was in order to get a  
18 confession, is that right?

19 A. Believe me I'm not thinking about a 20-second scuffle. You  
20 don't believe what went on in Area 2. I mean, hundreds of  
21 murders a year. You are getting cases of rapes and robberies  
22 every day. Thousands of cases. I'm not thinking about a  
23 20-second scuffle inside the lieutenants's office. I'm  
24 thinking about it now because I didn't want to lose my pension  
25 and go to jail. But, you know, I didn't give it a lot of

1 thought until recently. I had to go out into the grand jury.

2 Q. And, sir, you are thinking about it now because you think  
3 you might lose your pension, is that right?

4 A. I'm losing my job. I was told that there is a possibility  
5 I was going to get charged with obstruction. That means I lose  
6 my pension, I lose my health insurance. Yeah, I was concerned.

7 Q. And you're still concerned to this day, isn't that right?

8 A. Yeah. I asked the U.S. Attorney what did I do, am I going  
9 to jail, and they shrug their shoulders, they don't tell me.

10 Q. Because you realized that you witnessed a crime, isn't that  
11 true, sir?

12 A. There might have been an explanation for it.

13 Q. Sir, you realized you witnessed a crime, isn't --

14 MR. BEUKE: Objection.

15 BY MS. PERRY:

16 Q. -- that true?

17 MR. BEUKE: That's a legal conclusion.

18 THE COURT: Overruled.

19 MR. BEUKE: What question is that?

20 BY THE WITNESS:

21 A. It was very physical and violent job. I would scuffle and  
22 fight with people all the time. My partner has been shot. I  
23 have been put in the hospital. You're fighting with people on  
24 a weekly basis. I don't know if that is a crime or not. That  
25 should be up to the jury.

1 I saw a 20-second scuffle that happened 25 years  
2 ago.

3 BY MS. PERRY:

4 Q. You believe what Jon Burge did was a crime, don't you,  
5 sir?

6 A. With not knowing the intentions of Jon Burge, it may be  
7 there was an explanation. From what I saw I thought it was  
8 inappropriate, yes.

9 Q. And you realized that when you witnessed something  
10 inappropriate, that you should have done something about it as  
11 a sworn law enforcement officer, isn't that true?

12 A. Yes.

13 Q. And you did not do anything about it, did you, sir?

14 A. No, I didn't.

15 Q. Tell me what OPS is, please.

16 A. It's a civilian group, but it is called the Office of  
17 Professional Standards, and they review cases of misconduct by  
18 policemen.

19 Q. After you saw what Lieutenant Burge did to Shadeed Mu'min,  
20 you had an obligation to tell OPS, didn't you?

21 A. Maybe tell somebody. I don't know about OPS.

22 Q. Well, you certainly didn't tell OPS, isn't that true?

23 A. I was interviewed by OPS, correct.

24 Q. And in fact you lied to them, isn't that right?

25 A. About a couple things, yes.

1 Q. One of those things you lied about was that if you had ever  
2 seen a gun pointed at Mr. Mu'min, isn't that true?

3 A. Possibly.

4 Q. Would you like something to refresh your recollection?

5 A. No. If that was asked, I probably gave that answer.

6 Q. One the other things you lied about was whether you had  
7 ever seen Lieutenant Burge place something over Mr. Mu'min's  
8 head. Isn't that true?

9 A. Correct.

10 Q. You had seen both of those things happened, hadn't you?

11 A. Again nothing was put over his head. There was something  
12 put in his face. But Shadeed Mu'min was lying about a lot of  
13 things too, and OPS was doing an unauthorized investigation.

14 Q. That was not my question, sir. My question was you had  
15 seen those things happen, hadn't you?

16 A. I was trying to explain why I wasn't giving accurate  
17 answers.

18 Q. You agree that you did not give accurate answers to OPS,  
19 did you?

20 A. To an unauthorized investigation on their part, yes.

21 Q. You were not truthful with them, were you?

22 A. Not entirely. Some of the answers I'm sure were truthful.

23 Q. You have never reported this really to anyone, have you,  
24 apart from the members of the grand jury?

25 A. Correct.

1 correct?

2 A. Yes.

3 Q. With respect to the following conversation, did you begin  
4 to speak or did the prosecutor begin to ask you questions about  
5 cases that you were involved in?

6 A. Yes.

7 Q. Now when you walked into the grand jury that afternoon,  
8 sir, you knew about the case of People versus Alphonso Pinex.  
9 Correct?

10 A. Yes.

11 Q. And you knew, did you not, Mr. McDermott, that back in 1986  
12 you testified in that particular case, is that correct?

13 A. I don't recall testifying, but I did testify.

14 Q. Okay. There was testimony that you were called as a  
15 witness by the State's Attorney in that case, correct?

16 A. There is a motion to suppress the evidence, yes.

17 Q. Motion to suppress the statement or other evidence,  
18 correct?

19 A. Yes, sir.

20 Q. And in that proceeding that was before Judge Karnezis, was  
21 it not?

22 A. I don't recall what judge.

23 Q. In any event, in that proceeding you were sworn to tell the  
24 truth, correct?

25 A. Yes.

1 Q. And during the course of your testimony in that case, you  
2 were asked questions concerning whether or not you had struck  
3 Mr. Pinex during the course of time that you spent with him in  
4 an interrogation room, correct?

5 A. Yes.

6 Q. And without going into the specific questions and answers,  
7 would I be correct in assuming that you were asked questions  
8 about you physically abusing Mr. Pinex, correct?

9 A. Yes.

10 Q. And in response to those questions you indicated in your  
11 testimony back in 1986 that you had not struck Mr. Pinex,  
12 correct?

13 A. They were claiming there was abuse done during the  
14 interrogation, and I answered honestly that there was not.

15 Q. Well, you had a conversation with Mr. Pinex in 1985,  
16 correct, after his arrest?

17 A. Yes.

18 Q. In an interrogation room in Area 2, correct?

19 A. Yes.

20 Q. And during the course of the conversation before you spoke  
21 to him, you gave him his rights, correct?

22 A. Yes.

23 Q. And you had an opportunity to speak with him. Am I correct  
24 that that initial conversation would have been alone?

25 A. No.

1 Q. Was anyone with you?

2 A. My partner.

3 Q. Is that Mr. Maslanka?

4 A. Yes, sir.

5 Q. Okay. And during the course of that con- -- initial  
6 conversation with Mr. Pinex, did you and your partner speak  
7 with Pinex about your investigation or developments in the  
8 investigation that you had?

9 A. Yes. And we played audiotapes of the co-offenders  
10 implicating him.

11 Q. Well, during -- at some point during that conversation,  
12 sir, you and Mr. Pinex got into a confrontation, did you not?

13 A. No.

14 Q. Did you ever strike Mr. Pinex during the course of that  
15 interview?

16 A. No.

17 Q. Did you ever indicate in your testimony in front of that  
18 judge that you struck Mr. Pinex during the course of that  
19 interview?

20 A. No.

21 Q. And you were asked questions about that in your grand jury  
22 appearance, were you not?

23 A. Yes.

24 Q. In September of 2004, correct?

25 A. Yes.

1 Q. Okay.

2 I'm sorry, 2008. Is that correct?

3 A. Yes.

4 Q. And specifically were you asked questions by an assistant  
5 United States Attorney named Mr. Cramer?

6 A. Yes.

7 Q. And during the course of that testimony in front of the  
8 September 2008 grand jury, you indicated, did you not, under  
9 oath that in that interview room there was some sort of a  
10 confrontation with Mr. Pinex, correct?

11 A. I had a confrontation with him prior to the interview.

12 Q. Okay. the confrontation, that's what I'd like to ask you  
13 questions about with Mr. Pinex.

14 That was in an interview room, is that correct?

15 A. I believe so.

16 Q. Okay. And that confrontation with Mr. Pinex, am I correct,  
17 that it was just you and Mr. Pinex in the room, correct?

18 A. Yes.

19 Q. And during the course of the conversation that you had with  
20 Mr. Pinex, it was at -- after he was admonished of his rights  
21 or during the initial meeting?

22 A. No, it was when he first got there, and it was just a  
23 procedure to go through to search him. And we were going to  
24 come back later and conduct the interview with the Miranda  
25 warnings and present him with the evidence.

1 Q. I'm --

2 A. Buts this is --

3 Q. -- talking about this first --

4 A. That's --

5 Q. -- conversation with Mr. Pinex.

6 Something happened during the course of that  
7 conversation, did it not, Mr. McDermott?

8 A. There was not a conversation. He was escorted into area by  
9 two other officers from a different area who made the arrest.  
10 He was put into the room. I went into the room just to get  
11 things organized and pat him down or whatever because he was  
12 just arrested for murder.

13 My partner, I don't know where he went, I believe he  
14 went to get the audio tapes that we were going to play for  
15 him. This guy wasn't -- there was no conversation. He wasn't  
16 listening to my instructions. He's jumping out of his chair  
17 and squaring off on me like he was going to fight me, and I  
18 knocked him back down in the chair.

19 Q. Well, when you say you knocked him back down in the chair,  
20 did you strike him in the chest area or the torso?

21 A. I testified that I believed it was an open hand that  
22 knocked this guy back down. He is a -- I had gun on my side.  
23 He killed a state witness. He's a gang member. And he's  
24 jumping out of the chair. I'm telling him to sit down.

25 So, yeah, I knocked him back down. I didn't think of

1 -- anything of it. It wasn't abuse. It had nothing to do with  
2 the interview.

3 Q. Okay. Well, in any event, what happened during the course  
4 of that interview, you testified in the grand jury that your  
5 partner was not in the room, correct?

6 A. That's correct.

7 Q. He was not present when you struck Mr. Pinex in that manner  
8 in the chest, correct?

9 A. That's correct.

10 Q. And you were asked questions by Mr. Cramer, did Mr. Pinex  
11 ever say anything to your partner concerning the fact that you  
12 had struck him in the chest, and you indicated that he hadn't,  
13 correct, in the grand jury?

14 A. Probably said I didn't know.

15 Q. Okay. And he indicated -- or you were asked questions by  
16 Mr. Cramer as to whether or not you ever told your partner that  
17 you struck Mr. Pinex in the chest, correct?

18 A. Again I said I probably -- I didn't know.

19 Q. Okay. With respect to that motion to suppress back in  
20 1986, sir, you were aware of the fact, just so it is clear for  
21 the ladies and gentlemen of the jury, prior to testifying on  
22 that motion, it would be customary, would it not, that you  
23 would speak with the prosecutors concerning the nature or the  
24 allegations in the motion? Is that a fair statement?

25 A. It depends on the State's Attorney. Sometimes -- they make

1 suppression -- they make allegations on every case that you go  
2 on.

3 Q. Well --

4 A. So sometimes it is like automatic, and sometimes the  
5 State's Attorneys brief you and sometimes they don't.

6 Q. Okay. With respect to this being a murder case, in fact  
7 the murder of a state witness, was this a case that you spent  
8 some time with the prosecutors preparing your testimony for the  
9 motion to suppress, if you recall?

10 A. I don't remember any of it, no.

11 Q. Okay. With respect to -- you were aware of the fact, were  
12 you not, that Mr. Pinex testified in that motion also, correct?

13 A. I wasn't there for that. I don't know if it was part of  
14 the motion where --

15 Q. Okay.

16 A. -- the defense attorney presents an allegation.

17 Q. Okay. Were you aware of the fact that Mr. Pinex during the  
18 course of that motion testified that he was struck by you and  
19 your partner Mr. Maslanka?

20 A. He made a couple allegations. First, when it first  
21 started, he just made an allegation against my partner. And  
22 then days later he included me. And I don't know what he said  
23 at the motion to suppress.

24 Q. Okay. But you were aware of the fact, were you not, that  
25 he -- his allegations were that he was beaten by both you and

1 your partner, fair to say?

2 A. That's correct. And we took photographs of him that  
3 night.

4 Q. Okay. But when you were on the witness stand during the  
5 course of that motion, you never indicated or testified in  
6 response to any of the questions either by the prosecutor or by  
7 the lawyer for Mr. Pinex that you had struck him during some  
8 encounter prior to the interrogation in the chest, correct?

9 A. I don't remember testifying, so I can't really adequately  
10 answer that other than I didn't think it was anything -- much  
11 of anything. It is definitely not abuse.

12 Q. Well, I understand. But in September of 2008 you indicated  
13 in response to Mr. Cramer's question that you were not truthful  
14 in that -- during the course of your testimony in that  
15 hearing. Fair to say?

16 A. Prior to those questions, what Mr. Cramer was saying, I  
17 said I felt I was truthful as far as the motions to suppress.  
18 And that this -- all the questioning was revolving around when  
19 we advised him of his Miranda warnings and we were conducting  
20 an interview. And it flowed from there.

21 Now maybe I misunderstood the question. I can't tell  
22 you what my mind was thinking because I don't remember  
23 testifying.

24 Q. Okay. Well --

25 A. He pointed out that it appeared I made a false statement

1 regarding did I ever put my hands on him, and I admit that is  
2 not a true statement. Whether or not I misunderstood --

3 Q. Now Mr. Cramer --

4 THE COURT: Wait, wait, wait.

5 BY MR. BEUKE:

6 Q. Mr. Cramer actually directed you to a portion of the  
7 transcript, did he not?

8 A. Yeah, one portion, and I kept on trying to refer him to the  
9 prior portions that had all flowed from when you and Detective  
10 Maslanka went into the room, did he hit him, did I hit him,  
11 blah, blah, blah. And those were a denial, and those were  
12 honest answers.

13 Q. Well, at some point during that question or after he  
14 directed you to those series of questions and answers in your  
15 testimony at the motion to suppress, he asked you this question  
16 or these series of questions, and you gave these series of  
17 answers. Correct?

18 "Question: Is that a truthful answer?

19 "Answer: If they are referring to the conversation  
20 and the statement in his confession, that would have been a  
21 truthful answer because it starts out on page 15 about going  
22 into a room, conducting a conversation, advising him of his  
23 rights, and the questions go on from there, did you coerce the  
24 confession out of him? Did you do this and that? And I was  
25 going along with, no, no, no. I would say I was not being

1 truthful.

2 "Question: Why weren't you being truthful, sir?

3 "Answer: Because he was a murderer, and I didn't want  
4 him to get off."

5 Were those your answers to those questions by the U.S.  
6 Attorney back in September of 2008? Yes or no.

7 A. That is -- yes, and I was guessing. I was guessing to my  
8 motivation at the time --

9 Q. Well, sir --

10 A. -- because I don't remember testifying.

11 Q. But with respect to your answers at the motion to suppress,  
12 you knew you struck him in the chest, didn't you, when you were  
13 in the grand jury in September of 2008, didn't you?

14 A. We're tussling with peoples every week. You don't  
15 understand, this was nothing. This is I'm trying to control a  
16 person who murdered a kid, and he is jumping out of chair, and  
17 I knock him back down. Do I consider that abuse? Absolutely  
18 not.

19 Q. My question is, sir, you never told anybody, either in  
20 preparation for your testimony or in response to any questions  
21 posed to you during the course of that motion that you struck  
22 Mr. Pinex in the chest, did you? Yes or no.

23 A. Yes.

24 Q. Well, with respect to your appearance in July of 2008,  
25 Mr. Cramer went on -- or I'm sorry. Mr. Acosta was questioning

1 you at that time, isn't that correct?

2 A. Yes.

3 Q. And Mr. Acosta, after he went -- he began to ask you  
4 questions, did he not, concerning several of the cases that you  
5 had been involved in in your career, correct?

6 A. Yes.

7 Q. Do you remember Mr. Acosta asking you about a series of  
8 cases?

9 "Question: Well, let me ask you about some names  
10 first. Andrew Maxwell.

11 "Answer: Yes."

12 Do you recall that question?

13 MS. PERRY: Objection, Judge. If I may be heard at  
14 sidebar on this.

15 (Sidebar proceedings had in open court outside of the  
16 hearing of the jury:)

17 MS. PERRY: Judge, I get a sense Mr. Beuke is just  
18 going to start reading portions of the transcript, and that's  
19 an improper procedure.

20 MR. BEUKE: No, Judge, I am not, Judge. I'm going to  
21 be in and out in two seconds.

22 MS. PERRY: Well, you're reading directly from the  
23 transcript. Have you asked him yet anything?

24 MR. BEUKE: Judge, my intention was to indicate that  
25 he was -- he began -- the U.S. Attorney in the grand jury began

1 to ask him about a series of cases he was involved in. And  
2 then his question was, well, why do you need immunity? And his  
3 answer is: I witnessed an abusive act by Jon Burge.

4 Now I think immediately -- at least I think the  
5 relevant portion of that answer to that question is he didn't  
6 give an answer that I struck Alphonso Pinex in the chest. And  
7 when I testified at a motion to suppress, I never told anybody  
8 that I struck Alphonso Pinex in the chest. What I did was I  
9 gave up Jon Burge. That's -- that's where I'm going. And I  
10 get in and get out, Judge.

11 MS. PERRY: But you don't need to read the page of  
12 questions where he is asked about all these different people.

13 MR. BEUKE: Well, I think --

14 MS. PERRY: That wasn't one of them.

15 MR. BEUKE: I think it needs to be set up, the fact  
16 that the series of -- he is asked about some cases.

17 THE COURT: Well, the proper way to do this is, I  
18 guess, did you tell the grand jury such and such. If then he  
19 doesn't, you can confront -- if he denies it. But you can't  
20 just read the transcript to him.

21 MR. BEUKE: Oh, okay. Well, I'll -- okay. All right,  
22 judge, I think I understand.

23 (Proceedings had in open court in the presence and hearing  
24 of the jury:)

25 BY MR. BEUKE:

1 Q. Mr. McDermott, with respect to your appearance that morning  
2 or afternoon, you were asked by the prosecutor about some of  
3 the cases that you had investigated during the course of your  
4 career, correct?

5 A. Yes.

6 Q. And at some point you indicated you remembered a few of  
7 them, you didn't remember a few of them. Correct?

8 A. Yes.

9 Q. And just so it is clear, you had not been told prior to  
10 walking in there about any of the cases that they wanted to  
11 speak to you about, correct?

12 A. Correct.

13 Q. Okay. And after a series of questions and answers between  
14 you and the prosecutor, is it correct that you and Mr. Acosta,  
15 at that point he asked you, well, tell the ladies and gentlemen  
16 why you think you need immunity, correct?

17 Do you remember that question being asked of you?

18 A. Yes.

19 Q. Okay. And you told Mr. Acosta in response to that  
20 question, because I witnessed an abusive act by Jon Burge.  
21 Correct.

22 A. Yes.

23 Q. You didn't tell the ladies and gentlemen of the grand jury  
24 that I committed perjury in my testimony on the People versus  
25 Alphonso Pinex case, did you?

1 A. And I don't believe I did.

2 Q. Okay. Well, you didn't tell the ladies and gentlemen of  
3 the grand jury that you or your partner were involved in  
4 striking Alphonso Pinex in the chest, did you?

5 A. My partner never laid a hand on him.

6 Q. Okay. Well, with respect to you, you didn't tell the  
7 ladies and gentlemen that you laid a hand on him, did you?

8 A. If they asked me specifically, I guess I would have told  
9 them that.

10 Q. Well, he asked you specifically in September, didn't he?

11 A. Yeah. But if they asked me specifically if I had of, I  
12 would had told them.

13 Q. Did he ask you specifically in July?

14 A. No, I don't think they asked about that case.

15 Q. When he asked you what you thought you needed immunity for,  
16 you told him, I witnessed an abusive act by Jon Burge.

17 Correct?

18 A. And not knowing Jon Burge's intentions, I saw something  
19 that was Inappropriate --

20 Q. That's not question, sir.

21 A. Well --

22 Q. Did you tell him, I witnessed an abusive act by Jon Burge?  
23 Yes or no.

24 A. I did say yes.

25 Q. Okay. And with respect to that testimony, just so it is